public tax sale that would be held on April 17, 2002, should Jones fail to redeem the property. *Id.* The return address on the mailing indicated that the letter was from the Commissioner of State Lands. Appellees' Joint Brief, Suppl. Addendum 18 (hereinafter "Suppl. Add."). Although notices of attempted delivery were left at the North Bryan Street address, neither Jones, nor his wife, who still resided in the home, went to the post office to claim the letter. After three delivery attempts, the post office returned the mailing to the Commissioner as "unclaimed."[4] JA 12; Suppl. Add. 18.

After the initial notice was returned, but prior to the public sale, the Commissioner purchased a title report from Walker Title Abstract Company, which identified Jones as the owner of the property.[5] JA 12; Suppl. Add. 19. On April 1, 2002, the Commissioner published notice of the public sale in the local paper, the Arkansas Democrat Gazette. JA 13. The published notice identified Jones as the owner and included the sale date, redemption information, legal description of the property, lien information, minimum bid, and tax due

---

[4] On the form, it may be indicated that the certified mail is returned either as: (1) unclaimed; (2) refused; (3) attempted—not known; (4) insufficient address; (5) no such street/no such number; or (6) no such office in state. Suppl. Add. 18. See also U.S. Postal Serv., *Domestic Mail Manual*, 507 Mailer Services, 1.1 (Jan. 6, 2005), *available at* http://pe.usps.gov/text/dmm300/507.htm ("Nondelivery of Mail"). The notice can also note that the addressee has not left a forwarding address or that the forwarding address has expired. When certified mail is returned as unclaimed, this indicates that a written notice was left at the address, but that no party went to the post office to receive delivery of the mail. *See id.* at Ex. 1.4.1 (USPS Endorsements for Mail Undeliverable as Addressed).

[5] The title also identified the Arkansas Department of Finance and Accounting ("DF&A") as holding unreleased liens on the property. J.A. 12. DF&A was also notified of the sale by certified mail, and accepted delivery of the mailing. *Id.* at 12-13. DF&A is not, and has never been, a party in this matter.

amounts. *Id.*; Suppl. Add. 23-24. Jones still made no attempt to redeem the property prior to the sale.

The public sale did not generate a bid. JA 13. On February 5, 2003, however, respondent Linda K. Flowers submitted a bid to buy the property.[6] *Id.* After receiving the offer, the Commissioner rechecked the county property records and visited the property as part of "negotiated sale research." Suppl. Add. 26 (capitalization omitted). Two weeks later, the Commissioner sent a certified letter to Jones at the North Bryan Street address informing him of the pending sale. JA 13. This letter was also returned "[u]nclaimed." *Id.* Jones again made no effort to redeem the property. The Commissioner issued a Limited Warranty Deed to Flowers on May 28, 2003. *Id.* at 14.

2. On July 2, 2003, Flowers served notice of unlawful detainer to the 717 North Bryan Street house. Appellants' Br. Addendum 11 (hereinafter "Add."); Pet. App. 2a. On July 28, 2003, Jones brought suit against the Commissioner and Flowers in the Circuit Court of Pulaski County, Sixth Division (CV 2003-8565). He claimed that the tax sale and thus Flowers' deed constituted an unlawful taking of his property "in that plaintiff was never given *actual notice of the sale* and never given *actual notice of the right to redeem after sale*." Add. 1 (emphasis supplied).[7] Flowers counterclaimed for unlawful detainer. JA 1.

Flowers and the Commissioner filed motions for summary judgment on October 2, 2003, and November 17, 2003, respectively. JA 1. Jones subsequently filed a cross-motion for summary judgment, claiming that he was entitled to actual

---

[6] Ark. Code Ann. § 26-37-202(b) permits the State to negotiate a private sale of any property that fails to generate a bid at a public sale.

[7] Jones later amended the Complaint to add his wife as a plaintiff. JA 1. Mrs. Jones is no longer a party to this action. For the sake of clarity, this brief refers to Jones as if he were the sole Plaintiff/Petitioner throughout.

notice prior to the sale of his property for failure to pay taxes. *Id.* at 2; Add. 41-45.

On January 14, 2004, the trial court granted respondents' motions. App. 3a. The court also granted Flowers' claim of unlawful detainer and granted her immediate possession of the property. *Id.* at 12a-13a. Jones appealed to the Arkansas Supreme Court.

On appeal, Jones asserted that "the trial court erred in ruling that the State was not required to locate Mr. Jones's correct address after the tax-sale notices were returned to the State unclaimed," and that "due process required the State to conduct a reasonable search of public records in an attempt to ascertain Mr. Jones's correct address before selling his property." Pet. App. 5a. The Arkansas Supreme Court found that the Commissioner had strictly complied with the State's notice statute, Ark. Code Ann. § 26-37-301. In addition, the court recited the standard from this Court's *Mullane* decision, and found that the procedures utilized by Arkansas comply with that standard. Specifically, the court pointed out the taxpayer's express legal obligation to apprise the State tax collector of any change in the address to which tax bills are to be sent, Pet. App. 8a, and that "due process does not require actual notice before depriving a property owner of his property," *id.* at 11a (citing *Dusenbery* v. *United States*, 534 U.S. 161 (2002)). Thus, the court held that the State regime did not violate Jones' due process rights. *Id.* [8]

SUMMARY OF THE ARGUMENT

The Commissioner satisfied the notice requirements of the Due Process Clause by twice sending written notice of the tax

---

[8] Jones also claimed that the Arkansas statute governing the procedures for selling properties at tax sales, Ark. Code Ann. § 26-37-202(e), is unconstitutional for failing to include a notice requirement. The Arkansas Supreme Court found that claim to be procedurally barred, *see* Pet. App. 3a-4a, and it is not before this Court.

delinquency on Jones' real property by certified mail to his last-known address and, after the mailings were returned as "unclaimed," publishing a detailed notice in the local newspaper. The State's statutory-notice regime also seeks to ensure that its mailings provide actual notice by imposing on the property holder a legal obligation to notify the tax collector directly of any change in address. See Ark. Code Ann. § 26-35-705. This regime fulfilled the requirements of due process because it provided notice "reasonably calculated" to apprise the property owner of the proceedings at issue. *Mullane*, 339 U.S. at 314.

The Due Process Clause does *not* require the State to provide property owners with actual notice of a potential deprivation. *Dusenbery*, 534 U.S. at 170. Where, as here, the State reasonably "attempt[s] to provide actual notice," *id.* (emphasis in original), its constitutional obligation is satisfied. "[T]he very nature of the due process inquiry indicates that the fundamental fairness of a particular procedure does not turn on the result obtained in any individual case; rather, 'procedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases, not the rare exceptions.'" *Walters* v. *National Ass'n of Radiation Survivors*, 473 U.S. 305, 321 (1979) (quoting *Mathews* v. *Eldridge*, 424 U.S. 319, 344 (1976)); see also *Parham* v. *J.R.*, 442 U.S. 584, 612-13 (1979). In cases spanning a number of decades and in a wide variety of settings, this Court has established that ordinary mail is a constitutionally sufficient means of seeking to deliver notice to persons whose addresses are known. See, *e.g.*, *Tulsa Prof'l Collection Servs.* v. *Pope*, 485 U.S. 478, 490 (1988) (probate creditor claims); *Mennonite Bd. of Missions* v. *Adams*, 462 U.S. 791, 798 (1983) (tax sale of real property); *Walker* v. *City of Hutchison*, 352 U.S. 112, 116 (1956) (real property condemnation). Arkansas' statutory scheme plainly goes beyond the constitutional minimum, providing notice by

certified mail (which has safeguards not possessed by regular mail) and elevating to a legal obligation the maintenance of correct addresses with the real-property tax collector.

Jones' real request is that the Court interpret the Constitution to require not only notice "reasonably calculated" to reach the property holder, but also additional measures if the State learns that actual notice was not received – here, the return of the certified letter as "unclaimed." Initially, in the courts below, Jones claimed that the Commissioner's follow-up measures had to result in actual notice because his whereabouts were publicly available. The Arkansas Supreme Court properly rejected this argument as an attempted circumvention of the Court's precedent holding that actual notice is not required.

Second, the premise of Jones' argument is that the return of the letter as "unclaimed" informed the Commissioner that Jones was no longer at his address. This is wrong – it indicated only that notices were left at the address stating that the Commissioner of State Lands, the real property tax collector, had sent mail to Jones, and that Jones had declined to go to the post office and pick it up. This Court should not impose upon the State tax collector a constitutional requirement to take measures concededly beyond notice reasonably calculated to reach the property holder simply because that entity has learned a fact that creates doubt about the property holder's address (particularly here, where Jones had a legal obligation to keep the address for tax collection on his real property current with the tax collector).

Third, even if follow-up measures were required in this setting, the State tax collector's actions here satisfied the Constitution. The Commissioner provided notice by publication after the certified letters were unclaimed, which is a permissible way of addressing any doubts that may arise about a property holder's location after a clearly constitutional effort has been made. That conclusion is particularly apt where, as here, the property at stake is real

property; and "the assessment of taxes occurs with regularity and predictability," and the forfeiture of delinquent property "cannot reasonably be characterized as unexpected in any sense." *Mennonite*, 462 U.S. at 808 (O'Connor, J., dissenting).

Finally, even putting aside the publication notice, the State tax collector had no obligation to follow up a constitutionally-sufficient notice with additional measures because the message was not actually delivered. Had the Commissioner used regular mail, fully satisfying its due process obligation, it would not have received the information that the mail was returned "unclaimed." A State should not be punished by the imposition of additional administrative burdens, expense and delay for its decision to provide more than the bare constitutional minimum. Moreover, once a State makes a constitutional effort to provide notice, its vital interest in the effective, efficient collection of real property taxes should hold sway. This is particularly true where the last known address is also the address of the property because under *Mullane*, a State is entitled to assume that an absent property owner has either abandoned his property or left it in the hands of a responsible caretaker with "a duty to let him know" if his interest is in jeopardy. 339 U.S. at 316.

Jones' facile suggestions – that the Commissioner should have searched the records of other government agencies or canvassed publicly available sources of information – assume that the relevant question is the burden of locating the address of a single taxpayer who has remained within the State and is easily found. In fact, States send tens of thousands of delinquency notices annually, generating thousands of pieces of information creating doubt about whether the property holder has received notice. Some of these property holders may be easy to locate (though even in this "easy" case, there were applicable legal restrictions and procedures that would have impeded information sharing among government entities, and there were a number of entries of G. Jones in the

relevant telephone book). Others will have moved out of State, or will have more common names, or will be otherwise more difficult to locate.

This Court should not impose upon the States the cost, inefficiency and delay entailed by following up with thousands of delinquent taxpayers whom the government has already made a fully constitutional attempt to notify and who cannot reasonably claim a belief that the non-payment of taxes, here over a period of more than four years, would not result in property loss. See *Bull* v. *United States*, 295 U.S. 247, 259 (1935) ("[t]axes are the lifeblood of government, and their prompt and certain availability an imperious need").

ARGUMENT

DUE PROCESS IS SATISFIED WHEN THE GOVERNMENT MAILS WRITTEN NOTICE OF A TAX SALE OR PROPERTY FORFEITURE TO THE PROPERTY OWNER'S LAST KNOWN ADDRESS.

A. The Fourteenth Amendment's Due Process Clause Requires Notice Reasonably Calculated Under All The Circumstances To Inform A Party Of A Potential Loss Of Property.

The Due Process Clause of the Fourteenth Amendment forbids the State to deprive an individual of life, liberty or property without "due process of law." U.S. Const. amend. XIV, § 1. Due process, in turn, includes the provision of notice and the opportunity to be heard. *United States* v. *James Daniel Good Real Prop.*, 510 U.S. 43, 48 (1993); *Grannis* v. *Ordean*, 234 U.S. 385, 394 (1914). Where, as here, the sufficiency of notice is at issue, courts apply the standard adopted in this Court's seminal case, *Mullane*, and fleshed out

in numerous subsequent decisions. See *Dusenbery*, 534 U.S. at 167.[9]

Prior to *Mullane*, this Court had held that publication notice was generally sufficient to satisfy due process. See, *e.g.*, *North Laramie Land Co.* v. *Hoffman*, 268 U.S. 276, 284 (1925); Frank S. Alexander, *Tax Liens, Tax Sales, and Due Process*, 75 Ind. L.J. 747, 765 (2000). But *Mullane* ended the presumption, explaining that although notice by publication is sufficient for unknown or missing persons, the State must try to give notice via more effective means (such as the mail) when a party is known. See 339 U.S. at 319. In words that continue to provide the constitutional standard, *Mullane* held that to satisfy due process, notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 314; see also *Greene* v. *Lindsey*, 456 U.S. 444, 449 (1982).

Under the *Mullane* standard, "[t]he means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." See 339 U.S. at 315. Notice satisfies the constitutional standard when "it is in itself reasonably certain to inform those affected . . . or, where conditions do not reasonably permit such notice, [when] the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes." *Id.* (internal citations omitted); see also *Dusenbery*, 534 U.S. at 170. Reasonable statutory notice requirements constitute due process even if they may not perfectly protect all property

---

[9] *Dusenbery* recognized that although the Court has applied the balancing test articulated in *Mathews* v. *Eldridge*, 424 U.S. 319 (1976), in a variety of due process contexts, it has "never viewed *Mathews* as announcing an all-embracing test for deciding due process claims. Since *Mullane* was decided, we have regularly turned to it when confronted with questions regarding the adequacy of the method used to give notice." *Dusenbery*, 534 U.S. at 168 (noting further that the Court saw "no reason to depart from this well-settled practice.").

interests: "The criterion is not the possibility of conceivable injury but the just and reasonable character of the requirements, having reference to the subject with which the statute deals." *American Land Co.* v. *Zeiss*, 219 U.S. 47, 67 (1911).

B. Actual Notice Is Not Required, And Notice Mailed To A Property Owner's Last Known Address Is Reasonable And Therefore Constitutional.

Since *Mullane* was decided, this Court has routinely recognized that it is "impossible to draw a standard set of specifications as to what is constitutionally adequate notice, to be mechanically applied in every situation." *Schroeder* v. *City of New York*, 371 U.S. 208, 212 (1962).[10] Nonetheless, this Court's decisions have established guiding legal principles that are relevant, indeed dispositive, here.

First, States are not required to provide property owners with actual notice of a potential deprivation. *Dusenbery*, 534 U.S. at 170. If the State reasonably "*attempt[s] to provide* actual notice," *id.*, it has satisfied its due process obligation. See also *United States* v. *One Toshiba Color Television*, 213 F.3d 147, 155 (3d Cir. 2000) (en banc) (the Supreme Court has "never employed an actual notice standard in its jurisprudence. Rather, its focus has always been on the procedures in place to effect notice."). Due process "does not impose an unattainable standard of accuracy." *Grannis*, 234 U.S. at 395.

---

[10] *See also Tulsa Prof'l*, 485 U.S. at 484; *Mennonite*, 462 U.S. at 801 (O'Connor, J., dissenting); *Morrissey* v. *Brewer*, 408 U.S. 471, 481 (1972); *Cafeteria & Rest. Workers* v. *McElroy*, 367 U.S. 886, 895 (1961) (the "very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation"); *Walker*, 352 U.S. at 115 (noting the "impossibility of setting up a rigid formula as to the kind of notice that must be given; notice required will vary with circumstances and conditions").

> [T]he very nature of the due process inquiry indicates that the fundamental fairness of a particular procedure does not turn on the result obtained in any individual case; rather, "procedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases, not the rare exceptions." [*Walters*, 473 U.S. at 321 (quoting *Mathews*, 424 U.S. at 344); see also *Parham*, 442 U.S. at 612-13].

Second, this Court has consistently approved as reasonable, and hence constitutional, notice by mailing to an individual property owner's last known address. *Dusenbery*, 534 U.S. at 169; *Tulsa Prof'l*, 485 U.S. at 490; *Mennonite*, 462 U.S. at 795, 797-98; *Greene* v. *Lindsay*, 456 U.S. 444, 455 (1982); *Memphis Light, Gas & Water Div.* v. *Craft*, 436 U.S. 1, 13-15 (1978); *Eisen* v. *Carlisle*, 417 U.S. 156, 174-75 (1974); *Bank of Marin* v. *England*, 385 U.S. 99, 102 (1966); *Schroeder*, 371 U.S. at 214; *Covey* v. *Town of Somers*, 351 U.S. 141, 146-47 (1956); *Walker*, 352 U.S. at 116; *New York City* v. *New York, New Haven & Hartford R.R.*, 344 U.S. 293, 296-97 (1953). In *Mullane* itself, the Court held that "ordinary mail to the record addresses" of the affected property owners would be constitutionally sufficient. 339 U.S. at 318. See also *Schroeder*, 371 U.S. at 214 (characterizing "the mailing of a single letter" as "a good faith effort to give [information] personally to the appellant").

Application of these two established principles makes clear that Arkansas' statutory regime provides constitutionally-sufficient notice. First, it utilizes certified mail to deliver notice. The mails "are recognized as an efficient and inexpensive means of communication," *Mullane*, 339 U.S. at 319; *Tulsa Prof'l*, 485 U.S. at 490, "upon which prudent men will ordinarily rely in the conduct of important affairs." *Greene*, 456 U.S. at 455. Certified mail "has further safeguards (*i.e.*, signature of recipient upon delivery and return of the signed receipt card)." *Whiting* v. *United States*,

231 F.3d 70, 76 (1st Cir. 2000). Thus, the State made an entirely reasonable choice to rely on a trusted and effective method of communication to inform Jones of the potential deprivation of his property. Indeed, this is a choice that reflects the State's genuine commitment to provide notice and goes beyond the constitutional minimum.

Second, to ensure the accuracy, efficiency, and fairness of its real property tax collection system, the State has enacted a law imposing upon real property owners an express legal obligation to provide the State tax collector with any change in address. See Ark. Stat. Ann. § 26-35-705. This is not a generalized statutory obligation with respect to all legal records of the State government, but an obligation directed specifically to the maintenance of the accuracy of records used in collecting real property taxes. A person is presumed to know his or her legal obligations. See, *e.g.*, *North Laramie Land Co.*, 268 U.S. at 283 ("[A]ll persons are charged with knowledge of the provisions of statutes and must take note of the provisions adopted by them and when that procedure is not unreasonable or arbitrary there are no constitutional limitations relieving them from conforming to it. This is especially the case with respect to those statutes relating to the taxation or condemnation of land.").

In sum, Arkansas' statutory scheme for providing notice *exceeds* the constitutional standard: It provides not just for mailing, but for certified mailing, and it enacts a legal obligation to underline the importance of maintaining accurate addresses for real property tax collection purposes. There can be no doubt that the notice provided to Jones was constitutionally sufficient.

C. Jones' Assertion That The Due Process Clause Also Requires The State To Undertake Specific Follow Up Measures Should Be Rejected.

The foregoing makes clear that Jones' argument is that the Due Process Clause not only requires "notice reasonably

calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections," *Mullane*, 339 U.S. at 314, but also requires specified follow-up measures if there is some reason for the Commissioner to believe that the initial, constitutionally-sufficient notice was not actually received. None of Jones' arguments, however, withstands scrutiny.

1. *The Commissioner's Actions Fulfilled, Indeed Exceeded, All Requirements Of The Due Process Clause.*

Initially, it is noteworthy that in the state courts, Jones uniformly took the position that the Commissioner is required to undertake follow-up measures that result in *actual notice* when it can do so. See *supra* at 6-7; see also Compl. (alleging that the sale and Flowers' deed were "deficient in that plaintiff was never given actual notice of the sale and never given actual notice of the right to redeem after sale. The failure to give actual notice to plaintiff results in an unlawful taking of property without due process . . . .") (Add. 1-2); Mot. for Summ. J. (Add. 41-45); Resp. to Mot. for Summ. J. ("[i]f the property owner's address is reasonably ascertainable the government or tax authority should make all reasonable efforts to see that actual notice is given") (Add. 54). *Dusenbery* holds that the Due Process Clause does not require actual notice, and thus Jones' complaint was properly dismissed by the Arkansas courts on this basis.

In addition, to the extent Jones is seeking to constitutionalize a requirement that the State follow up constitutionally-adequate attempts at mailing notice when the State "*knows*" that the property holder is no longer at the last-known address (Pet. Br. 10), that question is not presented here. It is undisputed that the mailings attempted here were returned as "unclaimed." See *supra* at 5, 6. This did *not* inform the State that Jones was no longer living at the address indicated on the state tax rolls. It indicated only that notices of attempted delivery of mail were left at the last-known address, but that no one went to the post office to claim that

mail. See *supra* at 5 & n.4. As also noted *supra* at 5, the return address of the mailings indicates that their source is the Commissioner of State Lands. For whatever reason, the residents of North Bryan Street chose not to claim the mail; but the situation would be the same if they had declined to accept the certified letter.

Particularly where, as here, the State has in place a statute requiring a property holder to notify the State tax collector of any change in address, the Commissioner cannot be deemed to have known that Jones was no longer at 717 North Bryan Street based on the return of certified mail as "unclaimed." And, under *Mullane*, the Commissioner was entitled to assume that the absent property owner had either abandoned his property or left it in the hands of a responsible caretaker with "a duty to let him know" if his interest is in jeopardy. 339 U.S. at 316. This Court should not constitutionalize a requirement that a State must follow up constitutionally-sufficient mailed notice with additional measures any time the State tax collector learns a fact that simply casts doubt on the continued validity of the address.

Third, this case does not present the question whether a State violates the Due Process Clause if it learns that a constitutionally-sufficient attempt to provide notice has been unsuccessful and then takes *no follow-up measures*. Here, the State *did* take follow-up measures in circumstances where the property holder should have independently been aware that a deprivation was imminent. Specifically, the Commissioner published in the local newspaper a detailed notice of the impending sale of the property, which was published because Jones had not paid taxes in over four years.

Although notice by publication is not, by itself, a constitutionally adequate means of notifying persons whose identities and addresses are known, this Court has held that it may be used to notify persons whose whereabouts are unknown. See, *e.g.*, *Tulsa Prof'l*, 485 U.S. at 491; *Mennonite*, 462 U.S. at 797. Publication is also a reasonable

means for a State to utilize as a follow-up measure after it provides constitutionally-sufficient notice and learns that such notice may not actually have been received. Notice by publication was deemed sufficient for many years; and although the Due Process Clause demands more of State governments today, publication should be a permissible means of addressing any doubts that arise about the location of a property holder after a constitutionally adequate effort has been made.

That is particularly true where the property at stake is real property, and the notice was mailed to the property's location. As previously noted, under *Mullane*, the Commissioner could properly assume that any absent property owner had either abandoned his property or left it in the hands of a responsible caretaker with "a duty to let him know" if his interest is in jeopardy. 339 U.S. at 316. In any event, the failure to pay property taxes is not the type of omission that can be characterized as unknowing or innocent. Every owner of real property is aware that he or she has an annual obligation to pay real property taxes and that the consequence of a failure to do so is first a lien on and ultimately the sale of that property. See, *e.g.*, *Longyear*, 209 U.S. at 418 ("[t]he owner of property whose taxes, duly assessed, have remained unpaid for more than one year must be held to the knowledge that proceedings for sale are liable to be begun").

In Arkansas, real property holders have both a legal obligation to keep their addresses current with the taxing authority and a pragmatic self-interest in complying with that law and protecting their property (*e.g.*, by leaving a responsible caretaker on the premises). No real property holder in Arkansas can reasonably claim that he or she believed that the State has ceased to tax real property or that the failure to receive notice of taxes due meant that no tax payment was required. At the very least, after failing to receive a property tax bill and pay property taxes, a property holder is on inquiry-notice that his property interest is subject

to governmental taking. Here, that delinquency continued over four tax years.

The Commissioner is *not* arguing either that the State had no obligation to provide notice or that it could provide notice solely by publication. The Commissioner's point is that the State has complied with the Due Process Clause when it has (i) provided constitutionally-sufficient notice, (ii) highlighted the importance of the maintenance of accurate addresses for tax assessment purposes by imposing on real property owners an obligation to maintain a correct address, and (iii) followed up with a published notice of sale in a setting involving a property holder who has failed to pay real property taxes or notify the State tax collector of a change in address over a number of years.

Citing *Mennonite*'s statement that "a party's ability to take steps to safeguard its interests does not relieve the State of its constitutional obligation," 462 U.S. at 799, Jones claims that his failure to comply with his statutory obligations to provide the tax collector with his new address and to pay property taxes are irrelevant. Pet. Br. 14-15. *Mennonite*, however, involved the due process rights of a mortgagee who was *not entitled to any notice of tax sale proceedings under state law* and had only an *option* to request such notice. 462 U.S. at 793, 798-800. This Court held that mortgagees are entitled to "notice reasonably calculated to apprise [them] of a pending tax sale" and that a failure to opt into a notice system does not relieve the State of its due process obligation to provide such notice. *Id.* at 798. Here, in contrast, the State regime provided Jones with constitutionally-adequate notice, and Jones is claiming an additional constitutional right to follow-up measures. Thus, the Commissioner is not arguing that Jones' failure to comply with his statutory obligation forfeits his right to constitutionally-sufficient notice.

Moreover, the Commissioner is relying on the statutory requirement that Jones notify the tax collector of address changes as part of the State's scheme to increase the

likelihood that notice will be effective. The Commissioner was certainly entitled to assume that Jones had complied with this legal obligation, and the Commissioner acted reasonably in relying on that assumption. Indeed, "the law expects at least some diligence from the property owner as well as the local officials" where property is the subject of a tax foreclosure. *Karkoukli's, Inc.* v. *Dohany*, 409 F.3d 279, 286 (6th Cir. 2005). And, the further fact that Jones failed to pay his real property taxes for four years is relevant to the reasonableness of the State's notice regime in the sense that real property owners are fully aware that they must annually pay taxes and that they are subject to the loss of the property if they fail to do so. See *Mennonite*, 462 U.S. at 808 (O'Connor, J., dissenting) ("the assessment of taxes occurs with regularity and predictability" and forfeiture of delinquent property "cannot reasonably be characterized as unexpected in any sense"). In a world where the two certainties are death and taxes, it would have been wholly unreasonable for Jones to believe that his property had somehow become tax-free, or that there would not be consequences for his delinquency.

In sum, the State's notice regime was reasonably calculated to get notice to Jones of the predictable consequences of his long-term property tax delinquency.

2. *This Court Should Not Constitutionalize A Requirement That States That Provide Constitutionally-Sufficient Notice (But Not Actual Notice) Must Make Follow Up Attempts To Discover An Alternative Means To Provide Notice.*

Finally, putting all of the foregoing aside, the Commissioner submits that once a State provides a constitutionally-sufficient notice to a property holder, the Due Process Clause does not require the State to act as if it had made no previous efforts and to undertake an investigation to determine a second constitutionally-sufficient means of providing notice. Where, as here, the State fulfills its constitutional obligation at the time notice is initially sent, the State does not violate due process when that message is not

actually delivered. "[T]he operative question" for sufficiency of notice cases is "whether notice was adequate at the time the notice was sent." See, *e.g.*, *Garcia* v. *Meza*, 235 F.3d 287, 294 (7th Cir. 2000).[11]

Indeed, when the government provides notice through the mails, this Court has found a due process violation *only* where the government knew, in advance of the mailing, that the notice would be ineffective. In *Robinson* v. *Hanrahan*, the Court invalidated notice sent to an incarcerated man's home address because the State knew *prior to the mailing* that he "was not at the address to which the notice was mailed." 409 U.S. 38, 38-40 (1972). Similarly, in *Covey* v. *Town of Somers*, the Court invalidated mailed notice, this time because the State knew *prior to mailing* that the property owner was incompetent and incapable of understanding the notice. 351 U.S. at 146-47.

Jones misleadingly says that these cases stand for the proposition that "[i]n circumstances where the sender knows that an attempt to provide notice has failed, this Court has found the notice inadequate." Pet. Br. 10. In fact, however, the cases involve only notice that was known to be a failure *before it was attempted.* They do not undermine, but support the Commissioner's position that where a decision to effectuate notice via the mails is initially reasonable and in good faith, the government's duty under the Due Process Clause is fully satisfied. See *Garcia*, 235 F.3d at 291 (declining "to impose an affirmative duty upon the

---

[11] *See also Karkouli's*, 409 F.3d at 285 (this interpretation "categorize[es] interest holders as either known or unknown at one time only, the time of mailing" and examines sufficiency of notice at that point); *Madewell* v. *Downs*, 68 F.3d 1030, 1046 (8th Cir. 1995) (finding mailed notice sufficient under due process even when returned because the government's decision to mail to the last known address was reasonably calculated to give notice); *Sarit* v. *United States Drug Enforcement Admin.*, 987 F.2d 10, 14 (1st Cir. 1993) (determining that sufficiency of notice is measured when sent).

government to seek out claimants in each case where its initial notice is returned undelivered or to require actual notice in every case").[12] That conclusion is doubly warranted here because Arkansas sought to ensure the accuracy of its tax rolls by enacting a statutory requirement that property tax holders provide the tax collector with their updated addresses.

According to Jones, however, once the State tax collector learns that a constitutional attempt to provide notice was unsuccessful, the State must make another effort to discover a new constitutional method to provide notice. This is essentially an attempted circumvention of the Court's rule that due process does not require actual notice, because Jones would require the State to respond to an attempt known to be unsuccessful with yet another effort. (Jones does not specify how many independent efforts would be required before the State would have satisfied its obligations.) And, Jones' proposed rule renders constitutionally meaningless the State tax collector's initial effort to provide notice because it imposes the same requirement both before and after a constitutionally-sufficient effort has been made. The Commissioner submits that once the State makes a constitutionally adequate attempt to provide notice, it has

---

[12] *See also Tsann Kuen Enters.* v. *Campbell*, 129 S.W.3d 822, 831 (Ark. 2003) (refusing to impose an additional burden on the State to locate a property owner if mailed notice of property forfeiture is returned undelivered); *Smith* v. *Cliffs on the Bay Condo. Ass'n*, 617 N.W.2d 536, 541 (Mich. 2000) (per curiam) (holding that the return of notice as undeliverable "does not impose on the state the obligation to undertake an investigation to see if a new address" could be found); *Dahn* v. *Townsell*, 576 N.W.2d 535, 541-42 (S.D. 1998) (finding the State's notice regime adequate where the government mailed notice to owner's last known address, even though that address was incorrect due to owner's failure to change it, and concluding that the State did not have a constitutional obligation to confirm the address); *Elizondo* v. *Read*, 588 N.E.2d 501, 504 (Ind. 1992) (holding that "all that is required is that the auditor send notice to the owner's last known address"); *Clark* v. *Jones*, 519 N.E.2d 158, 160 (Ind. Ct. App. 1988) (same).

fulfilled its obligations under the Due Process Clause. No more is required.

The Commissioner does not dispute that a real property holder's interest in that real property is important and deserving of constitutional protection. But the fact that the property at issue is valuable does not mean that mailing is an inadequate means of notice, as this Court has repeatedly recognized. See *supra* at 14 (citing cases). Moreover, under *Mullane*, the courts must balance "the individual interest sought to be protected by the Fourteenth Amendment," with the government's interests in real property tax collection. 339 U.S. at 314; *Tulsa Prof'l*, 485 U.S. at 484, 488-89.

Clearly, the government has a vital interest in timely, efficient and predictable tax collection. As set forth above, "[t]he States' interest in the integrity of their own processes is of particular moment respecting questions of state taxation." *Farm Credit Servs.*, 520 U.S. at 826 (citing *J.C. Penney Co.*, 311 U.S. at 444); see also *Mennonite*, 462 U.S. at 806 (O'Connor, J., dissenting) ("[i]t cannot be doubted that the State has a vital interest in the collection of tax revenues in whatever reasonable manner that it chooses" and an "equally strong interest in avoiding" undue burdens to the collection of those funds); Alexander, *supra* at 752, 755 (identifying property taxes as "the dominant source of revenues for local governments in the United States" and describing them as "central to their financial health"). States have an additional interest in preventing the harm that "occurs when property owners simply elect to abandon properties as the amount of delinquent tax approaches the value of the property," which, in turn, leads to "[d]ecaying inner city neighborhoods." *Id.* at 757.

Jones' proposed requirement that a State follow constitutionally-sufficient notice that does not succeed with additional follow-up measures would impose significant and unnecessary fiscal, administrative, and security burdens on the States. States send thousands, indeed tens and hundreds

of thousands, of legal notices every year. In Arkansas, for example, the Commissioner has approximately 18,000 parcels of delinquent real estate certified to his or her office annually, see *Tsann Kuen Enters.* v. *Campbell*, 129 S.W.3d 822, 828 (Ark. 2003). Other States' tax collectors are proportionately situated. These certifications of delinquency, in turn, generate thousands of returned mailings that, in Jones' view, generate constitutional follow-up requirements. Jones suggests a few, deceptively easy steps that the State tax collector could have taken to find *him*, but full consideration of these suggestions demonstrates precisely why they are fundamentally unworkable.

First, Jones claims that the Commissioner should have consulted other agencies that were in possession of his address. Initially, as set forth above, the return of the mailing as "unclaimed" did not inform the Commissioner that Jones had moved. Even assuming that the Commissioner should have treated it as an indication that Jones had moved, there was no indication that he remained within the State. Moreover, as is generally true, the state income tax records that Jones asserts the Commissioner should have checked are not accessible to the Commissioner because they are confidential, see Ark. Code Ann. § 26-18-303, as is the State's drivers' license information, see *id.* §§ 27-14-412, 27-50-906. (The federal equivalent is found at 18 U.S.C. § 2721.)[13] Equally to the point, even assuming that the

---

[13] There are provisions in both the tax law and the drivers' license information law that allow government agencies access to private information in the former upon a showing that the agency is auditing or investigating the taxpayer, Ark. Code Ann. § 26-18-303(b)(2), and in the latter upon a showing of reasonable cause based on the agency's need to effectively carry out its statutory duties, *id.* § 27-50-906(a)(7)(A). The exception to non-disclosure of tax information does not appear to apply by its terms, and the exception to non-disclosure of drivers' license information requires the agency to make a particularized showing as to each taxpayer. Obviously neither exception suggests that the

restrictions on inter-agency information sharing were lifted, the *process* of seeking individual information from other governmental agencies in connection with each returned mailing would result in substantial additional costs and delays.

Jones' further suggestion that the Constitution obligates the Commissioner to check public sources such as the internet or the local telephone directory for Gary or G. Jones (Pet. Br. 11-12) is equally misguided. Again, even assuming that the Commissioner had concluded that Jones had moved, why would the Commissioner assume that Jones remained in the same jurisdiction or even the same State? In addition, no court has required such a search to satisfy due process,[14] and Jones ignores the reality that, particularly in large urban areas, there will likely be multiple entries for common names. In fact, in 2000 and 2001, there were multiple entries for G. Jones and Gary Jones in the Little Rock phone book. The task becomes even more difficult if an owner's name is John Smith. Given that there are approximately 18,000 property forfeitures and thousands of returns every year in Arkansas alone, the potential administrative and financial burden of phone book and internet searches and the further investigative burden they create is enormous, adding cost, inefficiency and delay to a State's vital tax collection function.

In the alternative, Jones asserts that the notice should have been posted on the property. Again Jones simply ignores

---

Commissioner has ready access to other sources to obtain the real property owner's alternative addresses.

[14] In *United States* v. *125.2 Acres of Land*, 732 F.2d 239, 242 (1st Cir. 1984), the court noted that the government could have found a property owner's address in the phonebook, but there the government possessed a partial address *and* never attempted to mail the owner. The court simply noted that the partial address could easily could have been completed using the phone book (and that a partially addressed letter would have been delivered in the island community where the property owner resided)

what the Arkansas Supreme Court has expressly recognized – that posting "would result in an almost insurmountable burden on the State, *i.e.*, physically locate and post thousands of tracts of land each year. The inability to comply with such a requirement would have a devastating effect on tax sales and undermine the collection of delinquent real estate taxes." *Tsann Kuen*, 129 S.W.3d at 828. Moreover, posting presents a danger to employees of the Commissioner who may be threatened by owners of tax delinquent property.

In all of his suggestions, Jones breezily contends that the Commissioner could easily have taken any of a number of actions, ignoring that the burden on the State tax collector is not measured by the cost, inefficiency and delay in following up with respect to one taxpayer who may be relatively easily located, but instead by the cost, inefficiency and delay imposed by following up with thousands of taxpayers who may or may remain in the State and may or may not be easily found. See *supra* at 13-14.

The foregoing discussion also makes clear that creating a constitutional requirement that sufficient but unsuccessful notice must be followed by additional measures will deeply involve this Court in the formulation and management of State policies regarding tax collection and tax sales. But, this Court's task is only to ascertain what minimum requirement the Constitution imposes on the State, and not "to prescribe the form of service that the [government] should adopt." *Greene*, 456 U.S. at 455 n.9. As the Supreme Court for the State of Michigan recently explained:

> No matter what efforts are made to give notice, the owner who has not, in fact, been provided notice will always contend that something more could have been done. This will make the process of tax sales completely unpredictable, destroying the government's ability to recoup unpaid taxes by foreclosing and reselling. For due process purposes, the focus must be on the constitutional adequacy of the statutory procedure and

> not on whether some additional effort in a particular case would have in fact led to a more certain means of notice. [*Smith* v. *Cliffs on the Bay Condo. Ass'n*, 617 N.W.2d 536, 542 (Mich. 2000) (per curiam)].

The government is not required to engage in "heroic efforts" to give notice, nor to "substitute the procedures proposed by [a] petitioner for those in place." *Greenbery*, 534 U.S. at 170-71. Due process "requires only that the government's effort be 'reasonably calculated' to apprise a party of the pendency of the action: '[t]he criterion is not the possibility of conceivable injury but the just and reasonable character of the requirements . . . .'" *Id.* (quoting *Mullane*, 339 U.S. at 315) (alteration in original). Any additional efforts a State is required to take should be limited to a search of the records held by the taxing authority itself. Requiring a broader search into the records held by other governmental agencies or in the public domain places enormous fiscal and administrative burdens on the States and are inappropriate especially where property owners are able and legally obligated to provide their current mailing information.

In order to protect legitimate governmental interests, and in accord with *Mullane*, Arkansas state law requires that when a property is deemed delinquent, property owners are to be sent a letter via certified mail informing them of their "right to redeem by paying all taxes, penalties, interest and costs, including the cost of the notice." Ark. Code Ann. § 26-37-301(a)(1). The letter is to be sent to the owner's last known address. *Id.* To ensure that the address on file with the State is correct, taxpayers are required by statute to update their addresses if they move. *Id.* § 26-35-705. Thereafter, notice by publication is also made. The Due Process Clause does not require more, particularly where the obligation at issue is that of a real property owner to pay property taxes and where

the property owner failed either to pay such taxes or inquire for the tax bill for years.[15]

CONCLUSION

For the foregoing reasons, the judgment of the Arkansas Supreme Court should be affirmed.

Respectfully submitted,

CARTER G. PHILLIPS*
VIRGINIA A. SEITZ
DEVON A. CORNEAL
SIDLEY AUSTIN BROWN & WOOD LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Counsel for Respondent Mark Wilcox, Commissioner of State Lands

* Counsel of Record

December 21, 2005

---

[15] The State may elect to require more than the constitutional minimum. Arkansas amended Ark. Code Ann. § 26-37-301(e), effective January 1, 2004, to requires as follows:

> If the Commissioner of State Lands fails to receive proof that the notice sent by certified mail under this section was received by the owner of a homestead, as defined under § 26-26-1118(b), then the Commission of State Lands or his or her designee shall provide actual notice to the owner of the homestead, as defined under § 26-26-1118(b), by personal service of process . . . .

This amendment does not apply here, and the enactment of new procedures does not indicate a constitutional "infirmity of those that were replaced." *Dusenbery*, 534 U.S. at 172; *see also supra* at 4 n.2 (showing that the property at issue is not Jones' homestead).

ADDENDUM A

Ark. Code Ann. § 26-37-301. Notice

(a)(1) Subsequent to receiving tax-delinquent land, the Commissioner of State Lands shall notify the owner, at the owner's last known address, by certified mail, of the owner's right to redeem by paying all taxes, penalties, interest, and costs, including the cost of the notice.

(2) All interested parties known to the Commissioner of State Lands shall receive notice of the sale from the Commissioner of State Lands in the same manner.

(b)(1) The notice to the owner or interested party shall also indicate that the tax-delinquent land will be sold if not redeemed prior to the date of sale.

(2) The notice shall also indicate the sale date, and that date shall be no earlier than two (2) years after the land is certified to the Commissioner of State Lands.

(c) As used in this section, the terms "owner" and "interested party" shall mean any person, firm, corporation, or partnership holding title to or an interest in the property by virtue of a bona fide recorded instrument at the time of certification to the Commissioner of State Lands.

(d) The Commissioner of State Lands shall not be required to notify, by certified mail or by any other means, any person, firm, corporation, or partnership whose title to or interest in the property is obtained subsequent to certification to the Commissioner of State Lands.

(e)(1) If the Commissioner of State Lands fails to receive proof that the notice sent by certified mail under this section was received by the owner of a homestead, as defined under § 26-26-1118(b), then the Commissioner of State Lands or his or her designee shall provide actual notice to the owner of a homestead, as defined under § 26-26-1118(b), by personal

service of process at least sixty (60) days before the date of sale.

(2) As used in this subsection, "owner of a homestead" means:

(A) Every owner if the homestead is owned by joint tenants; and

(B) Either the husband or the wife if the homestead is owned by tenants by the entirety.

(3) The owner of a homestead shall pay for the additional cost of the notice by personal service of process under this subsection.

(10)

FILED
JAN 10 2006
OFFICE OF THE CLERK

NO. 04-1477

IN THE

Supreme Court of the United States

GARY KENT JONES,

Petitioner,

v.

LINDA K. FLOWERS and MARK WILCOX,
Commissioner of State Lands,

Respondents.

ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF ARKANSAS

REPLY BRIEF FOR PETITIONER

MICHAEL T. KIRKPATRICK
Counsel of Record
BRIAN WOLFMAN
DEEPAK GUPTA
PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street, NW
Washington, DC 20009
(202) 588-1000

Counsel for Petitioner

January 2006

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

REPLY BRIEF FOR PETITIONER 1

A. The Sufficiency Of Notice Must Be Judged In Light Of All The Circumstances And Not Just On What The State Knew When The First Notice Was Sent 2

B. The State Acted Unreasonably When It Sent Notice Of The Negotiated Sale By The Same Method That Had Failed To Notify Mr. Jones Of The Public Sale ... 8

C. The State Cannot Avoid Its Due Process Obligations By Claiming That It Lacked Knowledge That Its Mailed Notice Had Failed Or By Charging That Mr. Jones Abandoned The Property 10

D. It Was Unreasonable For The State To Conclude That It Had Sent Notice To The Best Address Available Or To Rely On "Inquiry-Notice" 11

E. Where The State Learns That Its Initial Notice Attempt Has Failed, Reasonable Follow-Up Efforts Will Not Disrupt Its Ability To Collect Taxes 14

CONCLUSION 20

TABLE OF AUTHORITIES

CASES

Akey v. Clinton County,
375 F.3d 231 (2d Cir. 2004) 6

Armendariz-Mata v. Drug Enforcement Admin.,
82 F.3d 679 (5th Cir. 1996) 6

Bank of America v. Giant Inland Empire R.V. Ctr., Inc.,
93 Cal. Rptr. 2d 626 (Cal. Ct. App. 2000) 7

City of Boston v. James,
530 N.E.2d 1254 (Mass. App. Ct. 1988) 6

Cleveland Bd. of Educ. v. Loudermill,
470 U.S. 532 (1985) 12

Connecticut v. Doehr,
501 U.S. 1 (1991) 16

Covey v. Town of Somers,
351 U.S. 141 (1956) 4

Dusenbery v. United States,
534 U.S. 161 (2002) 3

Foehl v. United States,
238 F.3d 474 (3d Cir. 2001) 6

Garcia v. Meza,
235 F.3d 287 (7th Cir. 2000) 5

Giacobbi v. Hall,
707 P.2d 404 (Idaho 1985) 6

Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.,
377 F.3d 592 (6th Cir. 2004), *aff'd on other grounds*,
125 S. Ct. 2363 (2005) 18

Greene v. Lindsey,
456 U.S. 444 (1982) 3, 8, 17

Hamilton v. Renewed Hope, Inc.,
589 S.E.2d 81 (Ga. 2003) 6

Johnson v. Gartlan,
470 F.2d 1104 (4th Cir. 1973) 17

Karkoukli's, Inc. v. Dohany,
409 F.3d 279 (6th Cir. 2005) 5

Kennedy v. Mossafa,
789 N.E.2d 607 (N.Y. 2003) 6

Madewell v. Downs,
68 F.3d 1030 (8th Cir. 1995) 5

Malone v. Robinson,
614 A.2d 33 (D.C. 1992) 4

Mennonite Bd. of Missions v. Adams,
462 U.S. 791 (1983) 3, 12, 13

Mullane v. Cent. Hanover Bank & Trust Co.,
339 U.S. 306 (1950) ..... *passim*

O'Brien v. Port Lawrence Title & Trust,
688 N.E.2d 1136 (Ohio Ct. Common Pleas 1997) 7

Patrick v. Rice,
814 P.2d 463 (N.M. App. 1991) 7

Peralta v. Heights Med. Ctr., Inc.,
485 U.S. 80 (1988) 13

Plemons v. Gale,
396 F.3d 569 (4th Cir. 2005) 6

Powelson v. United States,
979 F.2d 141 (9th Cir. 1992) 18

Reece v. Scoggins,
506 F.2d 967 (5th Cir. 1975) 18

Robinson v. Hanrahan,
409 U.S. 38 (1972) 4

Rosenberg v. Smidt,
727 P.2d 778 (Alaska 1986) 6

Sarit v. Drug Enforcement Admin.,
987 F.2d 10 (1st Cir. 1993) 5

Schroeder v. City of New York,
371 U.S. 208 (1962) 17

Small v. United States,
136 F.3d 1334 (D.C. Cir. 1998) 4, 5, 6

United States v. Cupples,
112 F.3d 318 (8th Cir. 1997) 6

United States v. Ritchie,
342 F.3d 903 (9th Cir. 2003) 6

United States v. Rodgers,
108 F.3d 1247 (10th Cir. 1997) 6

Vinscon, Inc. v. Ingram,
835 So. 2d 813 (La. Ct. App. 2002) 6

Vitek v. Jones,
445 U.S. 480 (1980) 12

Wells Fargo Credit Corp. v. Ziegler,
780 P.2d 703 (Okla. 1989) 6

Whiting v. United States,
231 F.3d 70 (1st Cir. 2000) 6

FEDERAL STATUTES

12 U.S.C. § 3758(2)(A)(iii) 17

12 U.S.C. § 3758(2)(B)(ii) 17

18 U.S.C. § 2721(b)(1) 19

26 U.S.C. § 6335(a) 18

28 U.S.C. § 3203(g)(1)(A)(i)(IV) 17

STATE STATUTES AND CONSTITUTIONS

Ark. Const., amend. 51 19

Ark. Code Ann. § 26-35-705 ..... 2, 11, 13

Ark. Code Ann. § 26-37-104(a) 2, 14

Ark. Code Ann. § 26-37-202(b) 8

Ark. Code Ann. § 26-37-202(e) 8

Ark. Code Ann. § 26-37-301(b)(2) 8

Ark. Code Ann. § 27-50-906 19

Ark. Code Ann. § 27-50-906(a)(7)(A) 19

Cal. Rev. & Tax. Code § 3365 15

Cal. Rev. & Tax. Code § 3704.7 15

Cal. Rev. & Tax. Code § 3704.7(c) 14

Del. Code Ann. tit. 9, § 8724 17

Del. Code Ann. tit. 9, § 8772 17

Fla. Stat. Ann. § 197.522(2)(a) 17

Ga. Code Ann. § 48-4-45(a)(1)(B) 17

Ga. Code Ann. § 48-4-78(d) 17

Haw. Rev. Stat. Ann. § 246-55(d) 14

Haw. Rev. Stat. Ann. § 246-56 17

Idaho Code § 63-1005(3) 14

35 Ill. Comp. Stat. § 200/21-75(a) 17

35 Ill. Comp. Stat. § 200/22-10 17

35 Ill. Comp. Stat. § 200/22-15 17

La. Rev. Stat. Ann. § 47:2183.1 14

La. Rev. Stat. Ann. § 47:2189 14

La. Rev. Stat. Ann. § 47:2261(C) 14

Md. Code Ann., Tax-Prop § 14-813(e)(1) 14

Md. Code Ann., Tax-Prop § 14-836(b)(4)(i)(2) 17

Md. Code Ann., Tax-Prop § 14-836(b)(4)(iv) 17

Md. Code Ann., Tax-Prop § 14-836(b)(6) 17

Md. Code Ann., Tax-Prop § 14-843 14

Me. Rev. Stat. Ann. tit. 36, § 1073 17

Me. Rev. Stat. Ann. tit. 36, § 1078 14

Mich. Comp. Laws Ann. § 211.60 14

Mich. Comp. Laws Ann. § 211.78i(3) 17

Minn. Stat. Ann. § 281.23(6) 17

Minn. Stat. Ann. § 281.23(8) 14

Miss. Code Ann. § 27-43-3 ..... 14, 15

Miss. Code Ann. § 27-45-3 14

Mo. Ann. Stat. § 140.405 14

Mont. Code Ann. § 15-18-112 14

Mont. Code Ann. § 15-18-212(1)(a) 17

Mont. Code Ann. § 15-18-212(2)(a) 17

N.D. Cent. Code § 57-28-04(3) 17

N.D. Cent. Code § 57-28-04(5) 14

Nev. Rev. Stat. Ann. § 361.595(2) 14

Nev. Rev. Stat. Ann. § 361.595(3)(b) 15-16

Nev. Rev. Stat. Ann. § 361.5648(5) 14

N.H. Rev. Stat. Ann. § 80:38-a 14

N.J. Stat. Ann. § 54:5-6 14

N.J. Stat. Ann. § 54:5-61 14

N.Y. Real Prop. Tax Law § 1110(1) 14

Ohio Rev. Code Ann. § 5721.25 14

Ohio Rev. Code Ann. § 5721.38(B)(4) 14

Ohio Rev. Code Ann. § 5721.39 14

Okla. Stat. Ann. tit. 68, § 3118 17

Okla. Stat. Ann. tit. 68, § 3118(A) 14, 17

Or. Rev. Stat § 312.120(2) 14

72 Pa. Cons. Stat. Ann. § 5860.602(i) 14

72 Pa. Cons. Stat. Ann. § 5860.607a 16

R.I. Gen. Laws § 44-9-25.1(2) 16

R.I. Gen. Laws § 44-9-27(a) 14

S.C. Code Ann. § 12-51-40 17

S.D. Codified Laws § 10-25-5 17

S.D. Codified Laws § 10-25-9 14

Tenn. Code Ann. § 67-5-2501(a) 14

Tenn. Code Ann. § 67-5-2501(b)(3) 14

Utah Code Ann. § 59-2-1346 ..... 14, 15

Utah Code Ann. § 59-2-1351(2)(a) 17

Utah Code Ann. § 59-2-1351.1(4) 14

Va. Code Ann. § 58.1.3965(A) 14

Va. Code Ann. § 58.1.3965(A) 14

Va. Code Ann. § 58.1.3974 14

Wash. Rev. Code Ann. § 84.64.050 14

W. Va. Code Ann. § 11A-3-2(c) 14

W. Va. Code Ann. § 11A-3-21 14

W. Va. Code Ann. § 11A-3-23(a)(3) 14

Wis. Stat. Ann. § 75.12(1) 17

Wis. Stat. Ann. § 75.12(4) 14

Wyo. Stat. Ann. § 39-13-108 18

MISCELLANEOUS

Frank S. Alexander,
Tax Liens, Tax Sales, and Due Process,
75 Ind. L.J. 747 (2000) 15

S. Rossman and D. Edelman,
Consumer Class Actions (5th ed. 2002) 19

U.S. Census Bureau,
Geographical Mobility 2002-2003 (2004) 19

U.S. Postal Service,
Domestic Mail Manual (Jan. 8, 2006) 10